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FAX COVER SHEET

Central Intelligence Agency

Washington, DC 20505

30 July 2004

To:	**DOJ Command Center** **For Dan Levin**
Organization:	**Office of Legal Counsel** **U.S. Department of Justice**
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Number of pages (including cover sheet): 14

Comments: (~~S//NF~~) Dan, Please find enclosed correspondence in your position as Acting head of OLC emanating from discussions had and decisions made during the NSC Principals Meeting of 7/20/04. Thank you. (b)(3) (b)(6)

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Central Intelligence Agency

Washington, D.C. 20505

30 July 2004

Transmitted by Secure Facsimile
Dan Levin
Acting Assistant Attorney General
Office of Legal Counsel
Department of Justice
Washington, DC 20530

Dear Mr. Levin:

(b)(1) (b)(3) (TS/ /NF, Please find enclosed with this letter a list of interrogation techniques that we ask your office to review in connection with our anticipated, imminent interrogation of Janat Gul, who was given over today to U.S. custody. These techniques would supplement those interrogation techniques approved by Assistant Attorney General Jack Goldsmith in his 7 July 2004 letter for the Central Intelligence Agency's (CIA) use, if necessary, in interrogating Gul. The enclosure does not include the waterboard, which will be the subject of separate correspondence. The CIA requests your office review these techniques and provide legal advice whether CIA's use of any of them to interrogate terrorists captured and detained as part of the United States war on terror would violate U.S. law, specifically the Torture Statute (18 U.S.C. §§ 2340 and 2340A), and United States obligations under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition, as agreed at the 20 July 2004 Principals meeting, we request a formal written opinion addressing whether, in all the circumstances, the use of these techniques would violate substantive Constitutional standards, including those of the Fifth, Eighth, and Fourteenth Amendments were they applicable to aliens detained abroad.

(b)(1) (b)(3) (TS/ /NF (b)(3) The enclosure lists includes mainly interrogation techniques the CIA views as non-physical, and less

(b)(3)

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Dan Levin, Esq.

intrusive techniques than those approved in the 2 August 2002 Office of Legal Counsel memorandum to John Rizzo. In the normal course of an interrogation, the Agency would first attempt to simply ask questions and determine whether the terrorist would cooperate. If the terrorist does not cooperate and following a medical and psychological evaluation of the detainee, the CIA interrogators would then seek permission from CIA Headquarters to use one or more of the enclosed interrogation techniques. Only if the terrorist continued not cooperating after the application of one or more of the enclosed techniques would the CIA interrogators seek permission from CIA Headquarters to use one or more of the techniques previously approved by DOJ (not including the waterboard). The list also includes three enhanced interrogation techniques for which we do not presently have a signed Department of Justice legal opinion. Two of these techniques involve the use of water and were discussed in our 2 March 2004 letter to AAG Goldsmith seeking a reaffirmation of previous legal guidance provided by the Office of Legal Counsel.

(b)(1)
(b)(3)

(TS/ /NF, (b)(3) At present, the CIA interrogation team sent to evaluate and, if necessary and approved, interrogate Janat Gul, is limited to using only those techniques approved for use in the 20 July 2004 NSC Principals Meeting.

(U//FOUO) If you have any questions, or would like briefings, please contact me and I will obtain answers and/or arrange the required briefings.

Sincerely,

(b)(3)
(b)(6)

Associate General Counsel

Enclosure

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DESCRIPTION OF STANDARD CONDITIONS OF DETENTION
AND OTHER PROPOSED INTERROGATION TECHNIQUES

This enclosure describes in Part I interrogation techniques, beyond those approved by the Attorney General and during the 20 July 2004 NSC Principals Committee meeting for use against captured al Qa'ida facilitator Janat Gul, for which the Central Intelligence Agency (CIA) requests the Department's legal review. In addition, because our written documents do not reflect whether we orally described standing sleep deprivation to the Department when we sought legal guidance for interrogation techniques to use with Abu Zubaydah, we describe it in Part II, below. Finally, this enclosure provides in Part III a brief description of certain standard conditions of detention for terrorists detained at CIA facilities pursuant to Central Intelligence Agency's (CIA) authorities to capture and detain terrorists, as granted in the 17 September 2001 Memorandum of Notification.

As background, conditions of detention, standard interrogation techniques, and enhanced interrogation measures are all used as integral parts of a larger exploitation plan. Depending on the time urgency of intelligence requirements, the interrogation of detainees proceeds as follows:

Upon rendering for interrogation, a detainee is evaluated by medical and psychological professionals to insure that the detainee is not likely to suffer permanent and pervasive harm as a result of interrogation. Should medical or psychological personnel judge the detainee to be at significant risk for permanent and pervasive harm, the interrogation may not proceed. If cleared for interrogation, the subject is then interviewed to determine whether or not the detainee is actively attempting to withhold or distort required intelligence. If it is determined that the detainee is actively withholding or distorting required intelligence, then the on-scene interrogation team, using information from the interview information, the medical and psychological evaluations, and other sources put together an exploitation and interrogation plan. If the exploitation calls

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for interrogation, then the on-scene interrogation team submits a proposed interrogation plan to CIA Headquarters which must review the plan and approve the use of any interrogation techniques before they may be applied. The CIA Counterterrorist Interrogation Program is designed to apply less aggressive, non-physical interrogation techniques first and, only if those techniques are not successful, apply the physical interrogation techniques approved in the Office of Legal Counsel memorandum of 1 August 2002 to Acting CIA General Counsel John Rizzo. Before the interrogation team may use any of the interrogation techniques approved in the 1 August 2002 OLC memorandum, it must document to CIA Headquarters that the lesser techniques have failed and request specific approval to move to these physical measures. Enhanced interrogation techniques are discontinued when the detainee is judged to be consistently providing accurate intelligence. They may not be reinitiated without first obtaining CIA Headquarters approval.

I.
INTERROGATION TECHNIQUES SUBMITTED FOR LEGAL REVIEW

As with the enhanced interrogation techniques approved for use with Abu Zubaydah in the Office of Legal Counsel memorandum to John Rizzo of 1 August 2002, these techniques were developed primarily from SERE training. These interrogation techniques would not be permitted absent the detainee first being evaluated by a medical officer and a psychologist, an interrogation plan prepared and submitted to CIA Headquarters, and Headquarters specific approval for their use. In addition, we describe one method of sleep deprivation. The interrogation techniques for which CIA requests DOJ legal review are the following:

- Dietary manipulation (so long as the intake is calculated to maintain the general health of the detainee)
- Nudity
- Water Dousing
- Abdominal Slap

Dietary manipulation (so long as the intake is calculated to maintain the general health of the detainee):

-- Purpose: Dietary manipulation, through the substitution of liquid diet for normal sustenance, wears down resistance as

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an additional dislocation of expectations. This is accomplished by inducing a non-harmful psychological stress.

-- Application: Substitution of commercial liquid meal replacements and water for normal food presents each detainee with a bland, unappetizing but nutritionally complete diet. CIA's Office of Medical Services recommends a minimal calorie intake of no less than 1000 Kcal/day, with a target of at least 1500 Kcal/day, and that the nutrients be presented as either a balanced liquid supplement (such as Ensure Plus), or the detainee's normal solid food intake. If enhanced interrogation methods are also to be used, OMS recommends a liquid diet to minimize the risk to the detainee of aspiration. A liquid diet is mandatory if the waterboard may be used.

Medical officers are required to ensure adequate fluid and nutritional intake. In general, minimum daily fluid nutritional requirements are estimated using the following formula:

Fluid requirement: 35ml/kg/daily. This will be altered depending on ambient temperature, body temperature, and level of activity. Medical officers must monitor fluid intake, and monitoring of urine output and specific gravity may be necessary when that officer suspects the detainee is becoming dehydrated. The minimum daily fluid intake consistent with sustaining life is generally 1500 ml/day.

Calorie requirement (male[1]): 900 + 10x the detainee's weight in kilograms for basal Kcal requirement; multiply by 1.2 for sedentary activity level, 1.4 for moderate activity level. Calories provided using commercial liquid diets also provide other essential nutrients, and will make for nutritionally complete meals.

For perspective, widely available commercial weight loss programs in the US employ diets of 1000 Kcal/day for sustained periods of weeks or longer without required medical supervision in persons voluntarily seeking to lose weight. Such diets have proven safe and effective in inducing short-term weight loss. Franchised medically supervised programs may employ diets with even lower daily calorie provisions (as low as 500 Kcal/day), but do entail some risk because of alterations in serum electrolytes. In comparison, it is OMS recommendation that

[1] CIA presently has no female detainees

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caloric intake be at least 1500 calories/daily, and that fluid intake be at least 1500 ml per day, which may include liquid food supplements.

Nudity:

-- Purpose: To cause a psychological discomfort for which near instant positive reinforcement can be provided for signs of cooperation. Nudity is one of the most effective interrogation techniques that can be used with Arab males. They are naturally modest and do not like being naked. Thus, it provides them a tremendous incentive to cooperate even a little in order to earn some clothing. Clothing can be provided as near instant reward for cooperating and the interrogators can begin to build upon that first piece of information provided by the detainee.

-- Application: During intake, as well as during and in-between initial interrogation sessions a detainee may be kept nude, provided ambient temperatures and health of the detainee permit. The detainee will earn clothes as he demonstrates appropriate participation. Nudity has a psychological effect similar to isolation. No sexual abuse or threats of sexual abuse are permitted. Although each detention cell has full-time closed circuit video monitoring, and thus detention facility staff responsible for watching the monitors for security and health purposes, the detainee is not wantonly exposed to other detainees or detention facility staff.

Water Dousing (not the water board):

-- Application: Water is poured on the detainee either from a container or the use of a hose without a nozzle connected to a water source. It is intended to weaken the detainee's overall resistance posture and persuade him to cooperate with interrogators by removing his sense of predictability and control. It is very effective and is used in SERE training. The detainee, dressed or undressed, is restrained in a standing, sitting, or in a horizontal position with his head tilted upward. If the detainee is lying on the floor, a poncho or mat, or other material must be placed between him and the floor to protect against undue loss of body heat. The water poured on the detainee must be potable and the interrogators must apply the water with care to keep the water from entering the nose, mouth, or eyes of the detainee. A session can last from 10

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minutes for a single application, to an hour for multiple applications.

A medical officer must observe and monitor the detainee for any signs of hypothermia. Ambient temperatures must be adjusted to remain in established safe minimums (minimum 64°F). At the conclusion of the water dousing session, the detainee must be moved to a heated room, if necessary, to permit his body temperature to return to normal in a safe manner. The medical officer must ensure the detainee is capable of sustaining a normal body temperature before the detainee may be returned to his cell.

Wet skin or clothing places a detainee at much greater risk for hypothermia, so if a partial or complete soaking is used in conjunction with the interrogation, or even for bathing, the detainee must be dry before being placed in a space with an ambient temperature below 78°F. Office of Medical Service guidelines for exposure to water dousing are:

- For water temperature of 41°F - total duration of exposure not to exceed 20 minutes without drying and rewarming.

- For water temperature of 50°F - total duration of exposure not to exceed 40 minutes without drying and rewarming.

- For water temperature of 59°F - total duration of exposure not to exceed 60 minutes without drying and rewarming.

These standards assume complete dousing of the individual, and represent 2/3 of the time at which hypothermia is likely to develop in healthy individuals submerged in water, wearing light clothing. The total dousing time includes both the actual dousing and time in wet clothing. In the opinion of the Office of Medical Services, a partial dousing, with its concomitant less total exposure and potential heat loss, would therefore be safe to undertake within these parameters.

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Abdominal Slap:

-- Purpose: The abdominal slap is used to condition a detainee to pay attention to the interrogator's questions. The abdominal slap is not used to harm the detainee but rather to redirect the detainee's attention back to the interrogator's line of questioning. The abdominal slap is also used in SERE training.

-- Application: An interrogator uses this technique when the detainee ignores questions or refuses to pay attention during the enhanced stage of an interrogation. To apply the technique the interrogator strikes the abdomen of the detainee with the back of his open hand. The interrogator must have no rings or other jewelry on his hand. The interrogator is positioned directly in front of the detainee, generally no more than 18 inches from the detainee. With his fingers held tightly together and fully extended, and with his palm towards the interrogator's own body, using his wrist as the fixed pivot point, the interrogator slaps the detainee in the detainee's abdomen. The interrogator may not use a fist, and the slap must be delivered above the navel and below the sternum.

II.
DESCRIPTION OF SLEEP DEPRIVATION

Sleep Deprivation

-- Purpose: Sleep deprivation is used as part of a spectrum of influence strategies and techniques aimed at eliminating a detainee's ability to mount a coherent and effective resistance strategy and increasing his willingness to give up closely held information. As part of a comprehensive exploitation strategy, sleep deprivation may effectively reduce the detainee's ability to think in a calculated manner and cope with a complex and changing situation. Additionally, the physical and psychological discomfort associated with the lack of sleep may help further motivate the detainee to act in a participative manner. Sleep deprivation is considered one of the most effective enablers to interrogation.

-- Application: While there are several techniques that can be used to induce sleep deprivation in a detainee, vertical or seated shackling are the easiest, safest, and most common

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methods used. Vertical or seated shackling during sleep deprivation eliminates the need for constant interaction with detention staff because the positioning keeps the detainee awake and there is no need for anyone to touch or interact with the detainee to keep him from falling asleep. Vertical shackling is the preferred method due to its safety and efficiency. Vertical shackling during sleep deprivation eliminates the need for interaction with detention staff because the act of standing keeps the detainee awake and there is no need for anyone to touch or interact with the detainee to keep him from falling asleep. In addition, vertical shackling prevents the unintentional abuse of a detainee who must be kept awake or awakened through increasingly aggressive actions as his state of exhaustion increases.

-- Procedure: To utilize vertical shackling for sleep deprivation, a detainee is handcuffed, and the handcuffs are attached by a length of chain to an eye-bolt positioned in the center of the ceiling. Due care is taken to ensure that the shackles are neither too loose nor too tight for physical safety. The detainee's hands must not be overly extended above his head nor may the shackles cause the detainee to dangle. Special care must be taken to ensure that the arms are not extended in any position where the elbows are locked and the shoulder joints stretched. Assuming no medical contraindications are present, extended periods in a standing position can be approved if the hands are no higher than head level. If the exploitation plan warrants, the detainee's hands may be raised above head level for up to two hours. Regardless of hand placement, weight is borne fully by the lower extremities. All detainee cells include a video camera connected to a closed circuit system that is monitored 24 hours a day. Therefore, CIA personnel at the facility can observe and take appropriate action as soon as any detainee who is being vertically shackled appears unable to support himself on his feet.

In some circumstances, vertical shackling may not be the preferred method of invoking sleep deprivation. These conditions may be due to the detainee's physical condition (pending OMS Medical decision) and/or the environment in which the detainee is detained. If a requirement exists to place a detainee in sleep deprivation without placing weight on his lower extremities, a detainee is seated on a small stool and shackled to an anchor point in the middle of the interrogation

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room. The stool is of sufficiently small size to support the detainees weight but not large enough to let the detainee balance himself and sleep. Considerations for hand placement and other safety issues are the same for sitting sleep deprivation.

Diapering for Standing Sleep Deprivation:

When a detainee is kept in a standing position for purposes of sleep deprivation, detention facility staff must place him in an adult diaper for sanitation purposes. The adult diapers are commonly employed in hospital and other care settings. The purpose of the diaper is for sanitation and hygiene purposes. It prevents the detainee from soiling himself and his cell. Diapers are also used during transportation where appropriate.

-- Application: The detainee is clothed in an adult diaper. The detainee's skin condition must be monitored, and the detainee must not be permitted to remain in soiled diapers. Diapers must be changed periodically.

Diapering is a key part of standing sleep deprivation because it allows the interrogation team and detention facility staff to leave the detainee alone (though monitored by camera) for significant periods of time. Leaving the detainee alone during standing sleep deprivation is a key psychological tool because the time alone provides the detainee the time to think about his situation and motivate himself to improve his condition. A detainee who can break up this time alone, for example by arranging to be repeatedly removed from the shackling in order to be permitted to use the toilet, can delay the psychological impact of the sleep deprivation.

III.
STANDARD CONDITIONS OF CIA DETENTION

CIA security needs require that the conditions of detention for all detainees held in CIA facilities include the following:

- Hooding (during transportation)
- Shaving
- Use of Isolation
- Use of Loud Music or White Noise (at a decibel level <79db - calculated to avoid damage to detainees' hearing)

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- Constant Light
- Shackling

Hooding:

-- Purpose: Hooding is used for security purposes to prevent the detainee from learning his location or the layout of the detention facility. Hooding is not used as a method of interrogation. Hooding is used when a detainee is rendered to or moved from a CIA detention facility. Hooding is used when a detainee is taken out of his cell, moved to the interrogation room, and during his initial exchange with interrogators. Hooding may also be used for security purposes when physicians and other personnel work in close proximity to the detainee.

Shaving:

-- Purpose: Shaving is used for hygiene and security purposes. Shaving provides a security benefit by removing hair in which a detainee might hide small items that might be used against his interrogators and other detention personnel.

-- Application: A detainee is shaved (head and face) upon arrival to the detention facility and occasionally at other times during his detention. Shaving is accomplished by the use of electric shaver while detainee is shackled to a chair.

Use of Isolation:

-- Purpose: All CIA detainees are held in isolation, meaning they have single occupant cells and are not ordinarily permitted to see, meet with, or speak to each other, although for intelligence exploitation purposes this is arranged on a case-by-case basis. Isolation is used for security reasons. First, it is used for security purposes to keep detainees from conspiring with each other to plan escape attempts or commit acts of violence against each other or CIA personnel. Additionally, detainees are isolated from one another so they are unable to coordinate responses and resistance strategies. While CIA detainees cannot communicate with one another, their debriefers and detention center staff see them, however, on a regular basis. CIA does not have any "barracks style" detention facilities.

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Loud Music or White Noise:

-- Purpose: Loud music or white noise is used for security purposes to mask sound and prevent communication among detainees.

-- Application: Loud music or white noise is kept at a decibel level less than 79 dB (calculated to avoid damage to detainees hearing).

In general, sound in the dB 80-99 range is experienced as loud; above 100 dB as uncomfortably loud. OSHA guidelines require employers to establish a noise monitoring program when continuous noise is 85 dB or above. See 29 CFR 1910.95 App G.

Common reference points include garbage disposer (80 dB), cockpit of propeller aircraft (88 dB), shouted conversation (90 dB), motorcycles at 25 feet (90 dB), inside of subway car at 35 mph (95 dB), power mower (96 dB), chain saw (110 dB), and live rock band (114 dB).

According to CIA's Office of Medical Services, as a practical guide, there is no risk of permanent hearing loss for continuous, 24-hours-a-day exposures to sound at 82 dB or lower; at 84 dB for up to 18 hours a day; 90 dB for up to 8 hours, 95 dB for 4 hours, and 100 dB for 2 hours. If necessary, instruments can be provided to measure these ambient sound levels.

Constant Light:

-- Purpose: Constant light is used for security purposes. Every detention cell is equipped with a video camera that is always on and is connected to a closed circuit TV monitoring system. Detention facility staff monitor the detainees in their cells 24 hours a day, 7 days a week. Detainees generally adapt fairly soon to the constant light and can sleep.

Shackling:

-- Purpose: Shackling is used for security purposes. Shackling enhances security in all aspects of detainee management and movements. Some detainees wear leg shackles 24 hours a day, others wear leg shackles only when an interrogation or other CIA personnel are in the room with them. Whether a

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detainee wears shackles 24 hours a day depends on how much of a threat he is considered to be to detention facility staff. Restraints should not impede circulation or lead to permanent damage.

-- Application: Shackling is done in such a manner as to not restrict the flow of blood or cause any bodily injury. CIA's Office of Medical Services guidelines recommend that restraints be applied and/or adjusted so that a space of one finger is maintained between the restraint and the detainee's tissue. Restraints should neither impede circulation nor lead to abrasions.

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